

REMARKS / ARGUMENTS

1. The Amendments to the Claims

Before this Amendment, claims 47 and 69 were pending. Upon entry of the present amendments, claims 47 and 69 will be pending and under active consideration.

Claim 47 and 69 have been amended to more particularly point out, and distinctly claim the subject matter that the Applicant regards as his invention. The Applicant expressly reserves all rights to prosecute claims drawn to any subject matter removed by claim cancellation or by claim amendment made herein in a subsequent continuation application. No new matter is added by these amendments, and they are believed to place the claims in condition for allowance. The subject matter of the amended claims is fully supported in the specification and original claims as filed.

As suggested by the Examiner, Claim 47 has been amended to recite the limitation “the amino acid sequence as shown in SEQ. ID. NO. . . .” Support for amended claim 47 is found *inter alia*, at page 4, line 12 to page 8, line 25; page 9, lines 6-27, and page 10, line 19 to page 16, line 24 of the specification.

As suggested by the Examiner, Claim 69 has been amended to recite the limitation “the amino acid sequence as shown in SEQ. ID. NO. . . .” Support for amended claim 69 is found *inter alia*, at page 4, line 12 to page 8, line 25; page 9, lines 6-27, and page 10, line 19 to page 16, line 24 of the specification.

2. Claim Rejections

a. Examiner's Rejection Under 35 U.S.C. § 102(b) Should Be Withdrawn

At page 2 of the Office Action, the Examiner has maintained the rejection of claims 47 and 69 under 35 U.S.C. § 102(b), as being anticipated by Lewis *et al.* (1994, Sequence, organization, and evolution of the A+T region of *Drosophila melanogaster* mitochondrial DNA. Mol. Biol. Evol. 11: 523-538). While the Applicant does not in any way agree with this rejection, merely to advance prosecution and obtain coverage for certain embodiments of the invention, claims 47 and 69 have been amended, as suggested by the Examiner, to “change the word “an” to “the”, thus limiting the claimed isolated recombinant DNA to the disclosed SEQ ID NO's.” (Office Action, page 3)

Applicant believes that the amendments and remarks made herein have fully addressed the Examiner's rejections, and the claims are now in condition for allowance. Reconsideration and withdrawal of the rejection of claims 47 and 69 is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicant believes that the application is in good and proper condition for allowance. Early notification to that effect is earnestly solicited. If the Examiner feels that a telephone call would expedite the consideration of the application, the Examiner is invited to call the undersigned attorney at (315) 425-9000.

If there are any other fees due in connection with the filing of this Amendment or accompanying papers, please charge the fees to Marjama Muldoon Blasiak & Sullivan LLP's Deposit Account No. 50-0289. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the Deposit Account.

Respectfully submitted,

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Enclosures